

RECAPTURE AGREEMENT

This recapture agreement (Agreement) is made by and between the Wyoming School Facilities Commission (Commission) and MB Limited Liability Company and 402 Limited Liability company (collectively "Seller") and is effective the date of the last signature affixed hereto.

NOW, THEREFORE, in consideration of the promises and the mutual representations, covenants, undertakings and agreements hereinafter contained, the Commission and the Seller represent, covenant, undertake and agree as follows:

1. Purpose. Natrona County School District No. One is purchasing and developing eleven (11) acres of land, more or less, in the Gosfield Addition to the City of Casper for a new school site. Certain infrastructure improvements, as further described below, are required for the development of the new school site. As the initial funding for these infrastructure improvements is being provided by the Commission, and as certain of these improvements are considered "off-site" improvements, Wyoming law requires that the Commission be repaid for certain portions of the costs of the offsite infrastructure improvements by the landowners benefiting from those improvements.

2007 WYO. SESS. LAWS. Chap. 136, Section 027, Fn. 7; 2008 WYO. SESS. LAWS. Chap. 48, Section 027, Fn. 1: and Chapter 3, section 6(j) of the Commission's Rules require that when state funds are expended for offsite infrastructure improvements to connect school building sites to existing infrastructure, a legal and contractual requirement must exist to repay costs expended for any excess offsite infrastructure capacity from future users of that excess capacity. This Agreement is intended to comply with that requirement.

2. Term of Agreement. This Agreement shall commence upon the day and date upon which closing occurs in the Purchase and Sale Agreement executed between and among the parties and shall remain in full force and effect until terminated.

3. Role of the Wyoming School Facilities Commission. The Commission provides funding to the District for the purchase and development of school sites as well as the construction of schools. All actions of the district regarding such efforts are entered into subject to the approval of the Commission, and are performed under separate contract. The Commission's role in this

agreement is as a party because the repayment obligations required herein accrue directly to the benefit of the Commission as a matter of law.

4. Infrastructure Costs and Responsibilities of Parties.

a. On-Site Infrastructure Costs.

Pursuant to Ch. 3, §6(u) of the Rules and Regulations of the Commission, the Commission will fund up to fifty percent (50%) of the cost of the road adjacent to the school property and up to one hundred percent (100%) of the cost of a sidewalk to be built adjacent to the school property.

Fifty percent (50%) of the cost of the roads adjacent to the school property as represented in Green on Exhibit "A" attached hereto, which include portions of Centennial Village Drive, Waterford Street and Gosfield Street where adjacent to the school property, shall be funded by the Commission pursuant to this section. This funding shall not be subject to recapture.

The estimated costs associated with construction of these streets are set forth on Exhibit "D" attached hereto, the cost estimate prepared by CEPI Engineers, subject to adjustment upon receipt of final bids.

b. Off-Site Infrastructure Costs.

Pursuant to Ch. 3, §6(j) of the Rules and Regulations of the Commission, the Commission has determined the following constitute appropriate off-site infrastructure needs of the district, and may be funded with off-site infrastructure funds of the Commission, subject to recapture as described in the paragraphs below.

That portion of the roads adjacent to the school property as represented in Orange on Exhibit "A" attached hereto (and as referenced in the Purchase and Sale Agreement executed between the parties which likewise include portions of Centennial Village Drive, Waterford Street and Gosfield Street where adjacent to the school property, shall be funded by the Commission pursuant to this section. This funding shall be subject to recapture.

The estimated costs associated with construction of these streets are set forth in Exhibit "E" attached hereto, the cost estimate prepared by CEPI Engineers, subject to adjustment upon receipt of final bids.

5. Commission's Responsibilities. The Commission will provide the initial funding necessary for construction and installation of both the "on-site" and "off-site" infrastructure described in this agreement. The obligations of the Commission as set forth in this agreement are expressly contingent upon annexation of the school property into the City of Casper on terms acceptable to the Commission and District.

6. Recapture. The Commission shall be entitled to recapture from Seller the amount of its off-site infrastructure costs identified above. All amounts to be recaptured shall be so recaptured as Seller sells or conveys any part of its interest in the lands identified in Exhibits "A", "B" and "C", attached hereto. Calculation of the amounts due and to be collected at the time of each conveyance shall be as set forth in Exhibit "C", the Breakdown of Areas for the Centennial Hills PUD, in the proportion that each tract of land bears to the total. The seller shall be entitled to sell or otherwise convey individual lots within any of the noted tracts, and any such sale or conveyance shall be subject to recapture in the proportion that its total area bears to the total area of the tract.

The total amount of recapture, which is equivalent to the total amount advanced by the Commission for "off-site" infrastructure, shall accrue simple interest at the rate of four percent (4.0%) per annum beginning on the 1st day of July, 2009 and continuing thereafter until the balance is paid in full, subject only to reduction from the total accrued balance for any recapture payments made during the ten (10) year term contemplated herein. Any remaining balance, together with all accrued interest, is payable in full by Seller on the tenth (10) anniversary of the date of execution of this agreement.

Calculation of interim recapture payments based upon sale or conveyance of any interest in any of the affected properties shall be in accordance with the Escrow Instructions attached hereto as Exhibit "G." American Title of Casper, Wyoming shall be charged with administration of the escrow and distribution of all funds in accordance with this agreement.

7. Notices. All notices given pursuant to this Agreement shall be in writing and shall be given by personal service; by facsimile, by United States Mail or by United States Express Mail or other established express delivery service (such as

Federal Express) or by certified mail, postage or delivery charge prepaid, return receipt requested, addressed to the appropriate party at the address set forth below:

8. General Provisions.

- a. **Amendments.** Any party may request changes in this Agreement. Any changes, modifications, revisions, or amendments to this Agreement which are mutually agreed upon by the parties to this Agreement shall be incorporated by written instrument, executed and signed by all parties to this Agreement.
- b. **Applicable Law.** The construction, interpretation, and enforcement of this Agreement shall be governed by the laws of the State of Wyoming. The courts of the State of Wyoming shall have jurisdiction over any action arising out of this Agreement and over the parties, and the venue shall be the First Judicial District, Laramie County, Wyoming.
- c. **Entirety of Agreement.** This Agreement consisting of 6 pages, and Attachments "A," "B," "C," "D," "E," "F" and "G" represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations and agreements whether written or oral.
- d. **Prior Approval.** This Agreement shall not be binding upon any party unless this Agreement has been reduced to writing before performance begins as described under the terms of this Agreement.
- e. **Severability.** Should any portion of this Agreement be judicially determined to be illegal or unenforceable the remainder of the Agreement shall continue in full force and effect, and any party may renegotiate the terms affected by the severance.
- f. **Sovereign Immunity.** The State of Wyoming, the City and the District do not waive their sovereign immunity by entering into this Agreement, and each fully retains all immunities and defenses provided by law with respect to any action based on or occurring as a result of this Agreement,
- g. **Third Party Beneficiary Rights.** The parties do not intend to create in

any other individual or entity the status of third party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties and obligations contained in this Agreement shall operate only between the parties to this Agreement and shall inure solely to the benefit of the parties to this Agreement. The provisions of this Agreement are intended to assist the parties in determining and performing their obligations under this Agreement.

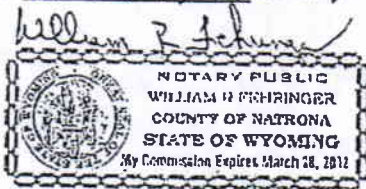
- h. **Signatures.** The parties to this Agreement through their duly authorized representatives have executed this Agreement on the dates set out below, and certify that they have read, understood and agreed to the terms and conditions of this Agreement as set forth herein. This agreement may be executed in counterpart signature pages, which when taken together with signature of all parties, shall constitute a complete original. Counterpart signatures by facsimile or duplicate shall also constitute an original signature.
- i. **Successors and Assigns.** This agreement shall be fully binding upon the successors and assigns of the parties hereto.
- j. **Burdens running with the land.** It is contemplated by the parties hereto that the obligations imposed by this agreement shall run with the land and, to that end, this agreement may be filed against each of the respective properties in the official records of Natrona County, Wyoming.

The effective date of this Agreement is the date of the signature last affixed to this Agreement.

MB LLC and 402 LLC

By: Ray [Signature]
Its REAL PROPERTY MANAGER

4-10-09
Date



Subscribed and sworn before me this _____ day of _____, 2009 .

Notary Public (Seal)

My commission: expires _____

SCHOOL FACILITIES COMMISSION:

By: _____
Its _____

Date

Subscribed and sworn before me this _____ day of _____, 2009 .

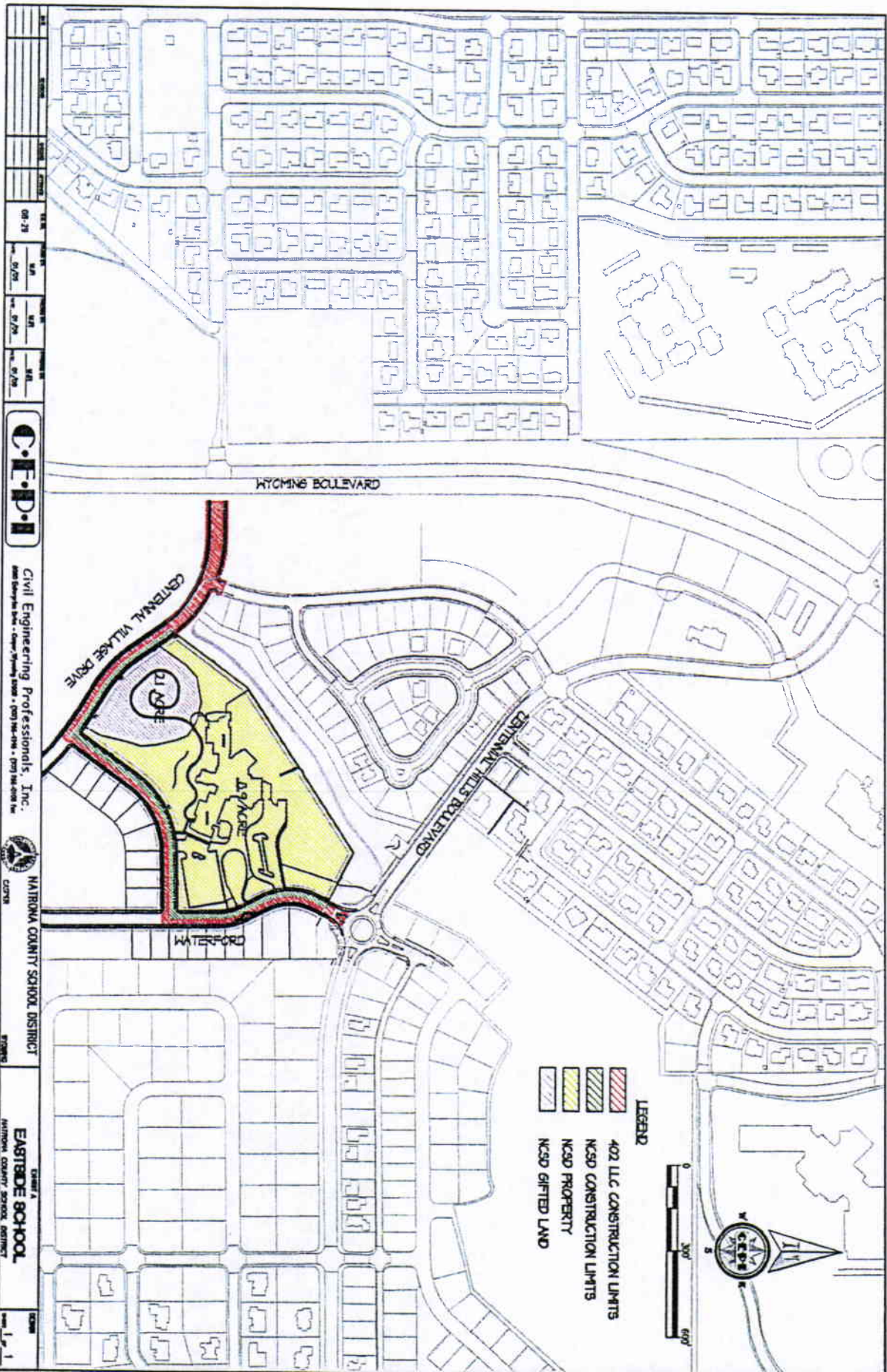
Notary Public (Seal)

My commission: expires _____

Approved as to form by NATRONA COUNTY SCHOOL DISTRICT NO. 1:

By: _____
Its _____

Date



DATE	08-23	BY	08/23	DATE	08/23	BY	08/23
REVISION		REVISION		REVISION		REVISION	
1		2		3		4	
5		6		7		8	
9		10		11		12	
13		14		15		16	
17		18		19		20	
21		22		23		24	
25		26		27		28	
29		30		31		32	
33		34		35		36	
37		38		39		40	
41		42		43		44	
45		46		47		48	
49		50		51		52	
53		54		55		56	
57		58		59		60	
61		62		63		64	
65		66		67		68	
69		70		71		72	
73		74		75		76	
77		78		79		80	
81		82		83		84	
85		86		87		88	
89		90		91		92	
93		94		95		96	
97		98		99		100	



Civil Engineering Professionals, Inc.
 1000 S. Orange Ave. • Suite 100 • (714) 944-4444 • (714) 944-4444



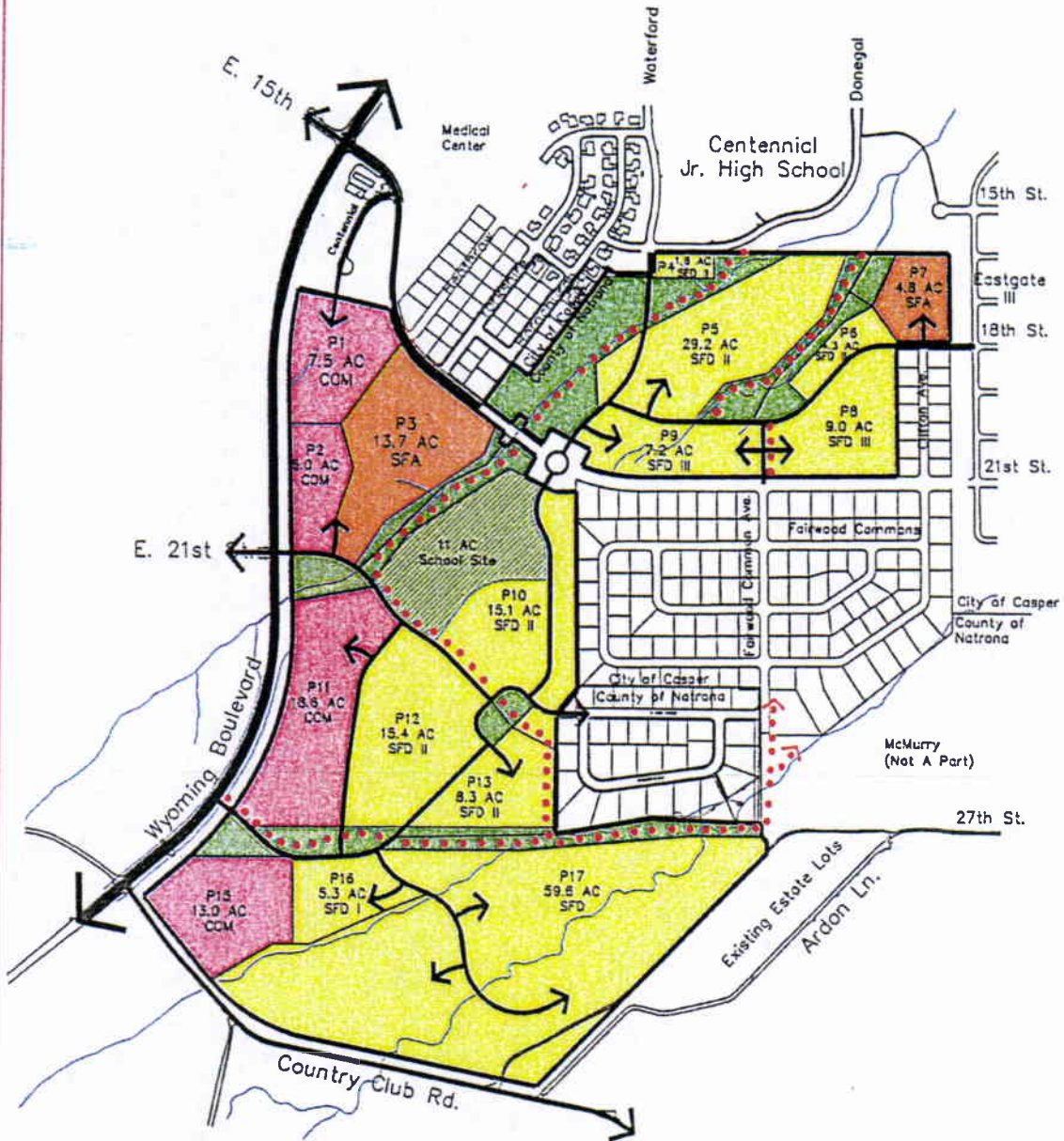
NATIONAL COUNTY SCHOOL DISTRICT
 1000 S. Orange Ave. • Suite 100 • (714) 944-4444 • (714) 944-4444

EASTSIDE SCHOOL
 NATIONAL COUNTY SCHOOL DISTRICT

Sheet 1 of 1



NO SCALE



Existing Roadway ———
Platted Roadway ———
Proposed Roadway ———
Community Trail

EXHIBIT "B"

Exhibit "C"

BREAKDOWN OF AREAS FOR THE CENTENNIAL HILLS PUD

AREA	TOTAL AREA (AC)	USUABLE AREA (AC)	TOTAL AREA (SQFT)	USUABLE AREA (SQFT)
P1	7.5	6.5	326,700	283,140
P2	5	4.3	217,800	187,308
P10**	15.1	9.5	657,756	413,820
P11	18.6	15.2	810,216	662,112
P12	15.4	12.6	670,824	548,856
P13	8.3	7.2	361,548	313,632
P15	13	11.4	566,280	496,584
P16	5.3	4.5	230,868	196,020
P17	59.6	52.6	2,596,176	2,291,256
TOTALS	147.8	123.8	6,438,168	5,392,728

** Excludes 11.0 acres for the school site

This table represents the actual land in acres and square feet remaining in the Centennial Hills PUD Subdivision. The table also shows the usable area in acres and square feet. The usable area was determined by looking at some existing similar subdivisions and calculating the amount of roadway right-of-way used in a subdivision. The usable area was estimated by how much of the subdivision would be developed lots and how much would be used up by roadway right-of-ways. Some commercial areas will not require a need for roads and therefore there percentage of usable land is greater than a residential subdivision.

Cost per square foot for offsite improvements

\$ 1,100,010.00 \$
5,392,728

0.20

Exhibit "D"

Infrastructure Costs for the New Eastside Elementary School - School District Portion

Water System Improvements				
Description	Unit	Quantity	Unit Cost	Total Cost
F&I 8" PVC Water Line	LF	2.130	\$ 50.00	\$ 106,500.00
F&I 8" Gate Valve	EA	6	\$ 1,250.00	\$ 7,500.00
F&I 8" Fittings	EA	8	\$ 800.00	\$ 6,400.00
Connection to Existing Water Main	EA	2	\$ 3,000.00	\$ 6,000.00
F&I 1" Services	EA	-	\$ 1,250.00	\$ -
F&I Fire Hydrant Assembly	EA	6	\$ 5,000.00	\$ 30,000.00
Select Material	CY	1.500	\$ 25.00	\$ 37,500.00
Foundation Material	CY	500	\$ 35.00	\$ 17,500.00
Subtotal Water System Improvements				\$ 211,400.00
Sanitary Sewer System Improvements				
8" Sewer Line	LF	170	\$ 60.00	\$ 10,200.00
48" Diameter Manholes	EA	2	\$ 5,000.00	\$ 10,000.00
4" Service Line	EA	-	\$ 1,250.00	\$ -
Offsite Sanitary Sewer	LF		\$ 65.00	\$ -
Trench Patching	SY		\$ 40.00	\$ -
Select Material	CY	200	\$ 25.00	\$ 5,000.00
Foundation Material	CY	50	\$ 35.00	\$ 1,750.00
Subtotal Sanitary Sewer System Improvements				26,950.00
Roadway Improvements				
Sidewalk	LF	2,000	\$ 25.00	\$ 50,000.00
4" Asphalt & 12" Base Course and Fabric	SY	4,000	\$ 45.00	\$ 180,000.00
Curb and Gutter	LF	2,000	\$ 25.00	\$ 50,000.00
Earthwork	LS	1	\$ 15,000.00	\$ 15,000.00
Subtotal Roadway Improvements				\$ 295,000.00
Subtotal Water System Improvements				\$ 211,400.00
Subtotal Sanitary Sewer System Improvements				\$ 26,950.00
Subtotal Roadway Improvements				\$ 295,000.00
Sub-Total Construction Costs				\$ 533,350.00
15% Contingency				\$ 80,002.50
15% Engineering				\$ 80,002.50
Private Utilities				\$ 50,000.00
Grand Total Construction Costs				\$ 743,355.00

Exhibit "E"

Infrastructure Costs for the Offsite Improvements for the Developer

Water System Improvements				
Description	Unit	Quantity	Unit Cost	Total Cost
F&I 8" PVC Water Line	LF	300	\$ 50.00	\$ 15,000.00
F&I 8" Gate Valve	EA	3	\$ 1,250.00	\$ 3,750.00
F&I 8" Fittings	EA	-	\$ 800.00	\$ -
Connection to Existing Water Main	EA	-	\$ 3,000.00	\$ -
F&I 1" Services	EA	18	\$ 1,250.00	\$ 22,500.00
F&I Fire Hydrant Assembly	EA	2	\$ 5,000.00	\$ 10,000.00
Select Material	CY	-	\$ 25.00	\$ -
Foundation Material	CY	-	\$ 35.00	\$ -
Subtotal Water System Improvements				\$ 51,250.00
Sanitary Sewer System Improvements				
8" Sewer Line	LF	1,500	\$ 60.00	\$ 90,000.00
48" Diameter Manholes	EA	8	\$ 5,000.00	\$ 40,000.00
4" Service Line	EA	18	\$ 1,250.00	\$ 22,500.00
Offsite Sanitary Sewer	LF	260	\$ 65.00	\$ 16,900.00
Asphalt Trench Patching for Offsite Sewer	SY	520	\$ 40.00	\$ 20,800.00
Select Material	CY	1,200	\$ 25.00	\$ 30,000.00
Foundation Material	CY	250	\$ 35.00	\$ 8,750.00
Subtotal Sanitary Sewer System Improvements				228,950.00
Roadway Improvements				
Sidewalk	LF	4,100	\$ 25.00	\$ 102,500.00
4" Asphalt & 12" Base Course and Fabric	SY	6,500	\$ 45.00	\$ 292,500.00
Curb and Gutter	LF	4,100	\$ 25.00	\$ 102,500.00
Earthwork	LS	1	\$ 30,000.00	\$ 30,000.00
Subtotal Roadway Improvements				\$ 527,500.00
Subtotal Water System Improvements				\$ 51,250.00
Subtotal Sanitary Sewer System Improvements				\$ 228,950.00
Subtotal Roadway Improvements				\$ 527,500.00
Sub-Total Construction Costs				\$ 807,700.00
15% Contingency				\$ 121,155.00
15% Engineering				\$ 121,155.00
Private Utilities				\$ 50,000.00
Grand Total Construction Costs				\$ 1,100,010.00

Total Project Costs

Water System Improvements				
Description	Unit	Quantity	Unit Cost	Total Cost
F&I 8" PVC Water Line	LF	2.430	\$ 50.00	\$ 121,500.00
F&I 8" Gate Valve	EA	9	\$ 1,250.00	\$ 11,250.00
F&I 8" Fittings	EA	8	\$ 800.00	\$ 6,400.00
Connection to Existing Water Main	EA	2	\$ 3,000.00	\$ 6,000.00
F&I 1" Services	EA	18	\$ 1,250.00	\$ 22,500.00
F&I Fire Hydrant Assembly	EA	8	\$ 5,000.00	\$ 40,000.00
Select Material	CY	1,500	\$ 25.00	\$ 37,500.00
Foundation Material	CY	500	\$ 35.00	\$ 17,500.00
Subtotal Water System Improvements			\$ 262,650.00	
Sanitary Sewer System Improvements				
8" Sewer Line	LF	1,670	\$ 60.00	\$ 100,200.00
48" Diameter Manholes	EA	10	\$ 5,000.00	\$ 50,000.00
4" Service Line	EA	18	\$ 1,250.00	\$ 22,500.00
Offsite Sanitary Sewer	LF	260	\$ 65.00	\$ 16,900.00
Trench Patching	SY	520	\$ 40.00	\$ 20,800.00
Select Material	CY	1,400	\$ 25.00	\$ 35,000.00
Foundation Material	CY	300	\$ 35.00	\$ 10,500.00
Subtotal Sanitary Sewer System Improvements			255,900.00	
Roadway Improvements				
Sidewalk	LF	6,100	\$ 25.00	\$ 152,500.00
4" Asphalt & 12" Base Course and Fabric	SY	10,500	\$ 45.00	\$ 472,500.00
Curb and Gutter	LF	6,100	\$ 25.00	\$ 152,500.00
Earthwork	LS	1	\$45,000.00	\$ 45,000.00
Subtotal Roadway Improvements			\$ 822,500.00	
Subtotal Water System Improvements			\$ 262,650.00	
Subtotal Sanitary Sewer System Improvements			\$ 255,900.00	
Subtotal Roadway Improvements			\$ 822,500.00	
Sub-Total Construction Costs				\$ 1,341,050.00
15% Contingency				\$ 201,157.50
15% Engineering				\$ 201,157.50
Private Utilities				\$ 100,000.00
Grand Total Construction Costs				\$ 1,843,365.00

ESCROW INSTRUCTIONS

Exhibit "G"

The Wyoming School Facilities Commission (Commission) shall be entitled to "recapture" funds it has forwarded for construction of "off-site" infrastructure for a new Eastside Elementary School in the Gosfield Addition to the City of Casper in accordance with these escrow instructions.

Total funds subject to recapture are currently estimated at \$1,100,010.00 in accordance with the estimate prepared by CEPI Engineers in Exhibit E attached to the Purchase and Sale Agreement executed between the parties, subject to adjustment upon receipt of final bids. This estimated figure shall form the basis of the total amount of recapture until such time as all final costs of construction are received and a true total construction cost is known.

Interest shall accrue on the total estimated cost (or as adjusted by the total actual cost) at the rate of four percent per annum (4%) commencing on July 1, 2009 and continuing thereafter until the tenth anniversary of the execution of the Recapture Agreement between and among the Commission and MB LLC/402 LLC.

Disbursements from escrow shall occur upon closing of any sale or conveyance of any interest in the subject properties in the proportion that each such sold or conveyed tract of land bears to the total. The total acreage and square footage, as well as the individual acreage and square footage for each currently identified tract is found on Exhibit "C" to the Recapture Agreement. It is contemplated that MB LLC/402 LLC shall further develop the currently identified tracts as either residential or commercial developments, and that sales or conveyances shall be of tracts or lots contained within one or more of the currently identified tracts. In that event, disbursement from escrow to the Commission shall continue to be in the proportion that each tract or lot bears to the total.

Total useable square footage in the Centennial Hills PUD which is part of this recapture is 5,392,728 square feet as noted on Exhibit "C" to the Recapture Agreement. Each subsequent sale or conveyance of a tract or lot shall be subject to recapture based upon its respective proportion of this total useable square footage, plus accrued attributable interest.

Calculation of the recapture attributable to each sale or conveyance shall occur using the following formula:

Individualized recapture = "X" + "Y", where "X" = (Actual square footage of the sale or conveyance ÷ 5,392,728) x (Total estimated {or adjusted final} cost of construction) and "Y" = (Total estimated {or adjusted final} cost of construction) x [(Number of days elapsed from July 1, 2009 until date of closing) ÷ 365] x .04.